

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

SARAH DRAGANI

Plaintiff,

v.

GENESSE VALLEY INVESTORS, LLC, *et al.*,

Defendants.

11-CV-1193-WJM

ORDER

This matter comes before the Court on Plaintiff's motion to remand this action to the Superior Court of New Jersey. Also before the Court is Defendants' motion to dismiss. A Report and Recommendation ("R&R") was filed on June 6, 2011 by United States Magistrate Judge Mark Falk recommending that the Court grant Plaintiff's motion and remand the action to state court. Neither party filed an objection to the R&R.

Where the parties do not object to the R&R, the district court will adopt the report and accept the recommendation if it is "satisf[ied] . . . that there is no clear error on the face of the record." Fed. R. Civ. P. 72 Advisory Committee's Notes (citation omitted); *Laferta v. Kone Elevator*, 2010 WL 2178983, at *1 (D.N.J. May 26, 2010); *Peerless Ins. Co. v. Ambi-Rad, Ltd.*, 2009 WL 790898, at *4 (D.N.J. March 23, 2009) (same).

Having examined the R&R and the filings of the parties, the Court is satisfied that Judge Falk applied the correct legal standards based on the factual record developed by the parties; there is no error. The Defendants, having removed the action, must prove

diversity of citizenship by a preponderance of the evidence. *McCann v. Newman Irrevocable Trust*, 458 F.3d 281, 286 (3d Cir. 2006). And the Court must resolve all doubts in favor of remand. *Brown v. Francis*, 75 F.3d 860, 864-65 (3d Cir. 1996). Here, Judge Falk did not err by finding that Defendants failed to carry their burden because of the issues of citizenship created by Plaintiff's membership in two of the Defendant LLCs. The Court must remand.

For the foregoing reasons and for good cause shown;

IT IS on this 20th day of June 2011, hereby,

ORDERED that the Report and Recommendation of Magistrate Judge Mark Falk is adopted as the Opinion of this Court; and it is further

ORDERED that Plaintiff's motion to remand is **GRANTED**; and it is further

ORDERED that this case is remanded to New Jersey Superior Court, Hudson County; and it is further

ORDERED that Defendants' motion to dismiss is denied as moot.

/s/ William J. Martini

WILLIAM J. MARTINI, U.S.D.J.